

Message

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Sent: 2/2/2021 5:01:57 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily News Clips: Morning Edition 2-2-21

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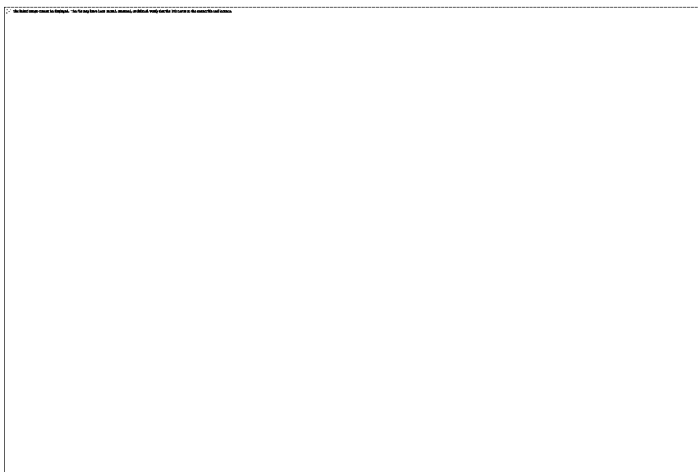
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<https://www.nytimes.com/2021/02/02/climate/biden-epa.html?searchResultPosition=1>



Michael S. Regan, President-elect Joseph R. Biden Jr.'s pick to lead the Environmental Protection Agency

By Lisa Friedman

Feb. 2, 2021

Updated 7:12 a.m. ET

WASHINGTON — As Michael S. Regan was settling in as North Carolina's top environmental regulator in a new Democratic administration, a powerful Republican wanted to send a message to the young head of the state's Department of Environmental Quality.

So in 2017, State Senator Brent Jackson slashed Mr. Regan's budget.

“Let’s just say that’s how I first got his attention,” Mr. Jackson said. But instead of lashing back, he recalled, Mr. Regan asked for a one-on-one meeting. That discussion led to several others, and eventually extended to Mr. Regan spending time at Mr. Jackson’s family farm.

“I tell him he’s one of my favorite tree-huggers,” Mr. Jackson said. “He and I didn’t see eye to eye and we still don’t see eye to eye, but we have become friends.”

Mr. Regan’s willingness to reach across the aisle helped secure his nomination to be the next administrator of the Environmental Protection Agency, people close to the Biden administration said. On Wednesday, Mr. Regan will testify before the Senate Committee on Environment and Public Works for his first test of whether he can win over Republicans in Washington as well.

But after four years during which former President Donald J. Trump ruthlessly rolled back virtually every Obama-era clean air, water and climate change regulation, environmental activists say a consensus approach is precisely what the E.P.A. doesn’t need. The next E.P.A. administrator must complete major new regulations on power plants, automobile tailpipes, mercury emissions and waterways — and be willing to anger Republicans in the process.

“His heart is in the right place, but he’s not tough,” said Steven Norris, an environmental activist from North Carolina.

A relative unknown outside Washington, Mr. Regan, 44, started his career at the E.P.A.’s headquarters in 1998 where he worked on air quality and energy programs under presidents of both parties. In 2012, he returned to his home state of North Carolina where he joined the Environmental Defense Fund, an environmental group that has partnered with energy companies to reduce greenhouse gas emissions, working on climate change and clean energy programs.

Roy Cooper, the Democratic governor of North Carolina, said Mr. Regan’s reputation as someone who worked with both liberals and conservatives was a major factor in appointing him to lead the state environmental agency.

“I knew that I needed a strong consensus builder,” Governor Cooper said.

One of Mr. Regan’s main achievements in North Carolina was brokering a multibillion-dollar settlement for coal ash cleanup with Duke Energy, the state’s largest electric utility, which won praise from both industry and environmental groups.

“He was a leader of high integrity, who worked to bring stakeholders together to advance environmental protections,” Julie Janson, executive vice president of Duke Energy and president of its Carolinas region, said in a statement.

Interviews with more than a dozen people who worked with Mr. Regan both in the nonprofit world and in government describe him as charismatic, with a megawatt smile who can command a room without dominating it. Virtually everyone who has come in contact with him praised his willingness to meet personally with people to hear out their concerns.

Yet some in North Carolina’s environmental community said they feared Mr. Regan was too eager to find middle ground.

Mr. Norris and others in the environmental community criticized the state agency under Mr. Regan’s leadership for not blocking permits for the Atlantic Coast Pipeline, a natural gas pipeline that has since been canceled. They praised Mr. Regan for establishing an Environmental Justice and Equity advisory board, the first for the agency, but they also accused him of not doing enough to work with communities most directly affected by big industrial projects, like a liquefied natural gas site in Robeson County and wood pellet plants that routinely received permits despite concerns about deforestation.

Donna Chavis, senior fossil fuel campaigner for Friends of the Earth, said Mr. Regan would certainly leave the North Carolina Department of Environmental Quality in better shape than he found it. The department had been decimated by budget cuts and led by a Republican who was hostile to climate change.

But, she said, “Michael set a floor of what D.E.Q. can do but didn’t reach for the ceiling.”

Others, including Governor Cooper, defended Mr. Regan and said they believed that he was the leader that the E.P.A. needed. During the Trump years, nearly 5 percent of the E.P.A.’s federal work force quit or retired. Employee satisfaction plummeted and concerns about the politicization of science skyrocketed.

“He will take over an E.P.A. that is in the same position that he found North Carolina’s D.E.Q. four years ago,” Governor Cooper said, crediting Mr. Regan with restoring morale among career staff and emphasizing a respect for science.

As for whether Mr. Regan can get tough, he said: “He can fight when he needs to. Ask Duke Energy.”

Mr. Regan, he said, “pulled off the largest coal ash clean up in the history of the country, and it required a lot of pressure to get that done.”

On issues sure to meet Republican resistance, such as cutting emissions from power plants and automobiles, Governor Cooper said, “He will take them on and knows that is part of the charge.”

Senator Shelley Moore Capito of West Virginia, the top Republican on the Senate Environment and Public Works Committee, said in her online interview with Mr. Regan last month that she had told him her coal-dependent state felt ignored during the Obama years, as the administration adopted regulations to reduce the country’s dependency on fossil fuels.

“If you don’t come and listen, the air in the balloon gets bigger and tighter, and the pressure of being ignored just grows and foment,” Ms. Capito said. Mr. Regan, she said, had promised to “come and listen” — but also sidestepped some of her specific questions about policy plans.

Raised in Eastern North Carolina, Mr. Regan when he was nominated recalled fishing and hunting with his father and grandfather, experiences he said shaped his love for the environment. Growing up with asthma, he said, also opened his eyes to the ways that industrial and heavily polluting factories and power plants are overwhelmingly in and near poor neighborhoods and communities of color. President Biden has made a focus on environmental justice a core part of his climate and environmental strategy.

Mr. Regan and Mr. Biden also share a personal tragedy: the death of a young child. Mr. Biden’s first wife and young daughter died in a car accident in 1972. Mr. Regan’s first son, Michael Stanley Regan Jr., who was known as MJ, died when he was 14 months old after being diagnosed with Stage 4 neuroblastoma, a rare childhood cancer.

He has taught us the true meaning of love, patience, perseverance and strength,” the family wrote in MJ’s obituary. Former colleagues said they felt, in some ways, that Mr. Regan channeled the loss into a redoubled commitment to the environment.

“He hurt a lot,” said Jim Marston, who hired Mr. Regan when he served as vice president of the energy program at the Environmental Defense Fund. “He didn’t just care about his son, he cared about everybody’s children. I think that’s why he is so good at environmental advocacy. He cares about the impacts on people, and he knows that pollution means often sickness or even terrible diseases like cancer.”

Agency

[Latest Trump EPA rule to get tossed? The ‘secret science’ ban](https://www.peoplesworld.org/article/latest-trump-epa-rule-to-get-tossed-the-secret-science-ban/)

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February 2, 2021 9:54 AM CST BY ZOYA TEIRSTEIN

EPA | AP

Former President Donald Trump will forever leave his mark on the federal government, but some of his administration's rules aren't standing the test of time. President Biden wants to reconsider and possibly scrap more than 100 anti-environmental actions his predecessor took during his term, including Trump's efforts to weaken protections for migratory birds and gray wolves and loosen regulations on pesticides, oil and gas drilling, and appliances. That could take years, but the process has already begun. And Biden is getting an assist from courts.

On January 19, the U.S. Court of Appeals for the District of Columbia Circuit rejected Trump's rollback of emissions regulations for coal-fired power plants, ruling that Trump's rule replacing the Obama administration's Clean Power Plan "hinged on a fundamental misconstruction" of the Clean Air Act. Last Friday, a three-judge panel on the D.C. Circuit Court found that parts of Trump's rollback of ozone pollution laws were illegal. The judges found that elements of Trump's policy "contravene the statute's unambiguous language," and "rests on an unreasonable interpretation of the statute."

On Monday, a federal court in Montana dealt another blow to Trump's industry-friendly environmental legacy. U.S. District Judge Brian Morris, an Obama appointee who was a thorn in Trump's side for much of his presidency, vacated the Trump administration's so-called "secret science" rule that limited the kinds of studies the Environmental Protection Agency could use to craft its policy.

The rule, which was finalized just two weeks before Biden took office, would have required researchers to disclose the underlying data from their health studies, like medical records, before the government could use the studies' conclusions as evidence in its rulemaking. Researchers typically do not disclose this data in order to protect the privacy of their human subjects. Many health studies rely on anonymized health data, and federal agencies have been using their findings to inform policy for decades.

"By shining light on the science we use in decisions, we are helping to restore trust in government," former EPA administrator Andrew Wheeler wrote in an op-ed in the Wall Street Journal in January.

Environment groups didn't agree. Last month, the Environmental Defense Fund, the Montana Environmental Information Center, and Citizens for Clean Energy challenged the rule in court, arguing that the Trump administration misclassified the rule in its rush to finalize it before Trump left office. Morris sided with the environmental groups and said that Trump's EPA had acted out of order by issuing the rule as though it were procedural rather than substantive. It's now up to Biden's EPA to reconsider the rule.

"The 'censored science' rule was one of the Trump administration's most brazen efforts to undermine the scientific foundations of regulatory policy," Richard Revesz, director of the Institute for Policy Integrity at New York University, said in a statement on Monday. "Today, the Trump anti-science effort, which had been opposed by the leadership of major scientific organizations, was quickly dispatched."

Agriculture

[Nufarm announces EPA registration for Engulf GHN](https://www.greenhousemag.com/article/nufarm-announces-epa-registration-for-engulf-ghn/)

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The miticide is labeled for greenhouse and shadehouse ornamental crops, greenhouse tomatoes, and Christmas tree and conifer plantations and nurseries.

February 2, 2021

Posted by Julianne Mobilian

Supplier News

Nufarm Americas announced the EPA registration of Engulf GHN Greenhouse and Ornamental Miticide, a new miticide labeled for greenhouse and shadehouse ornamental crops, greenhouse tomatoes, and Christmas tree and conifer plantations and nurseries. Engulf GHN is pending state registrations.

Nufarm-formulated Engulf GHN features a higher concentration of bifenthrin than the competition. This provides several benefits to greenhouse growers, including easier mixing, storage efficiency, and low use rates resulting in lower residue. Because of its selectivity, Engulf GHN can be used in conjunction with most biological control organisms available for mite control. When used as directed, it does not adversely affect populations of beneficial/predaceous mites and insects, including common lacewing, predatory mites, spider mite destroyer and others.

In addition to ornamentals grown in greenhouses and shadehouses, Engulf GHN is also labeled for tomatoes grown in greenhouses. To learn more about Engulf GHN, view the label, or download a product information bulletin, visit www.nufarm.com/usturf/engulf-ghn

Air

Court tosses lawsuit by pro-business group seeking to alter environmental data reporting

https://www.coloradopolitics.com/courts/court-tosses-lawsuit-by-pro-business-group-seeking-to-alter-environmental-data-reporting/article_80be51cc-6569-11eb-858c-1f6aa1d5b93d.html

By MICHAEL KARLIK michael.karlik@coloradopolitics.com Feb 2, 2021 Updated 18 min ago



Air pollution over Denver in an undated photo.

The state's air quality regulator does not have the authority to report lower ozone levels to the federal government by factoring in international emissions and forest fire effects, the Court of Appeals decided last week in dismissing a pro-business group's lawsuit.

"Polluters in the region refuse to clean up their mess and instead are pointing the fingers at neighbors — a hypocritical, cynical attempt to avoid accountability," Jeremy Nichols, the climate and energy policy director for WildEarth Guardians, said following the ruling. "Thankfully, the court shot them down, keeping us on track for real clean air solutions in the Denver metro area and beyond."

Defend Colorado, which describes itself as an alliance of community leaders "focused on defending Colorado's economy from extreme anti-business policies," asked the Air Quality Control Commission in 2019 to change the way the state calculated ozone emissions in the Front Range. Previously, the U.S. Environmental Protection Agency had classified the Denver metropolitan area and the northern Front Range as a moderate "non-attainment zone" for air quality based on 2008 standards.

If states do not meet standards in their problem areas by a certain date, the EPA may reclassify the non-attainment level more severely. At the end of 2019, the agency did just that, downgrading Colorado's non-attainment to "serious." In total, the non-attainment area covers Denver, Boulder, Jefferson, Adams, Arapahoe and Douglas counties, and portions of Weld and Larimer counties.

Ground-level ozone contributes to smog or haze, which can inflame airways and induce asthma attacks in humans. The EPA revisions mean Colorado must control emissions more strictly.

Each year, the state must submit to the EPA by May 1 a certification that air monitoring data are accurate. If the Colorado Department of Public Health and Environment could demonstrate to the federal government that Colorado would have met air quality targets but for emissions that originate outside the country or from “exceptional” events like forest fires, the state would avoid changes to its air quality classification.

The ACQQ declined to consider Defend Colorado's February 2019 petition to include those extra factors in the state's reporting, saying the group lacked standing.

Defend Colorado filed a complaint in Denver District Court, alleging the ACQQ was obligated to hold a hearing, and that any data certification that did not include the extra factors was invalid.

Colorado Attorney General Phil Weiser echoed the AQCC's determination to the court, arguing Defend Colorado had not demonstrated it would be harmed if the certified data remained unchanged.

“Defend Colorado claims to advocate for Colorado's economy and to protect the state's natural resources, but fails to identify how the Commission might resolve a controversy regarding how the law is applied to the organization or its members,” he wrote.

Judge Brian R. Whitney sided with the ACQQ and the Polis Administration, determining the annual data certification was not the proper means of demonstrating international emissions or exceptional events, and that the commission had no legal authority in the “creation, transmission, ratification, or manipulation” of the data.

In the Court of Appeals' opinion issued on Jan. 28, the three-member panel agreed that a method existed for notifying the EPA of a state's intent to demonstrate outside effects on air data — and Defend Colorado's request was not it.

Furthermore, the Air Pollution Control Division, not the ACQQ, is the entity responsible for air quality monitoring and data submission, the court noted.

“Accordingly, we, like the district court, reject Defend Colorado's contention that the Commission has a statutory duty to oversee Colorado's May Data Certifications to the EPA,” wrote Judge David H. Yun.

The panel also found that although the AQCC is required to conduct public hearings prior to changing air quality standards, emission control regulations or other regulatory programs, certifying the air quality data did not fall under those categories.

Finally, the court dismissed allegations that the governor improperly influenced the AQCC's actions, citing a “dearth of factual allegations.”

Defend Colorado and its attorneys did not immediately respond to a request for comment. The Denver Post reported in March 2019 that the group's lawyer refused to disclose to the AQCC who the funders were for Defend Colorado.

Nichols, with WildEarth Guardians, said that the Clean Air Act's provision for international emissions was intended to apply to urban areas near the border, and that the dismissal of a lawsuit was a victory for health and climate in Colorado.

“Regulating clean air and public health isn't about throwing up your hands and saying there's nothing to be done, it's about confronting the pollution you can control so that you can account for the likelihood of events and still keep people safe,” he said.

The case is Defend Colorado v. Polis.

Energy

Switch Awarded Environmental Protection Agency's ENERGY STAR® Certification for Superior Energy Efficiency
<https://www.prnewswire.com/news-releases/switch-awarded-environmental-protection-agencys-energy-star-certification-for-superior-energy-efficiency-301219690.html>

NEWS PROVIDED BY

Switch

Feb 02, 2021, 09:00 ET

LAS VEGAS, Feb. 2, 2021 /PRNewswire/ -- Switch, Inc. (NYSE: SWCH) ("Switch") the global technology infrastructure corporation, today announced it has earned the U.S. Environmental Protection Agency's (EPA) ENERGY STAR certification at its Core Campus in Las Vegas. The certification signifies that the building performs in the top tier of facilities nationwide for energy efficiency and meets strict energy efficiency performance levels set by the EPA.

"The EPA's ENERGY STAR certification is an important recognition of CEO and Founder Rob Roy and Switch's long-standing commitment to the highest standards of sustainability in the design and operations of our company," said Adam Kramer, Switch EVP of Strategy. "Switch is committed to remaining the global industry leader in the development of sustainable technology infrastructure solutions. In doing so, we will continue to be the leader in reduced carbon footprints, increased water efficiency and expanded renewable power resources."

Commercial buildings that earn EPA's ENERGY STAR certification use an average of 35 percent less energy than typical buildings and also release 35 percent less carbon dioxide into the atmosphere. Switch has surpassed those numbers for decades with its energy performance by managing energy strategically across the entire organization and by making cost-effective improvements to its data center facilities.

"Improving the energy efficiency of our nation's data centers has become more critical than ever as our digital economy expands," said Jean Lupinacci, Chief of the ENERGY STAR Commercial & Industrial Branch. "Switch's data centers are among the most efficient in the industry, and we also commend the company for its use of renewable energy in powering its data centers."

Switch's patented designs make its data centers the most efficient in the industry, supported by an industry-leading Power Usage Effectiveness (PUE) rate. Since January 1, 2016, Switch is the largest colocation data center provider powering all of its data centers with 100% renewable energy.

ENERGY STAR was introduced by EPA in 1992 as a voluntary, market-based partnership to reduce greenhouse gas emissions through energy efficiency. Today, the ENERGY STAR label can be found on more than 65 different kinds of products, 1.4 million new homes and 20,000 commercial buildings and industrial plants that meet strict energy-efficiency specifications set by the EPA. Over the past twenty years, American families and businesses have saved more than \$230 billion on utility bills and prevented more than 1.8 billion metric tons of greenhouse gas emissions with help from ENERGY STAR.

About Switch

Switch, Inc. (NYSE: SWCH), is the independent global leader in exascale data center ecosystems, edge data center designs, industry-leading telecommunications solutions and next-generation technology innovation. Switch Founder and CEO Rob Roy has developed more than 500 issued and pending patent claims covering data center designs that have manifested into the company's world-renowned data centers and technology solutions.

We innovate to sustainably progress the digital foundation of the connected world with a focus on enterprise-class and emerging hybrid cloud solutions. The Switch PRIMES, located in Las Vegas and Tahoe Reno, Nevada; Grand Rapids, Michigan; and Atlanta, Georgia are the world's most powerful exascale data center campus ecosystems with low latency to major U.S. markets. Visit switch.com for more information or follow us on LinkedIn and Twitter.

Environmental Justice

Biden Administration Executive Order Further Signals Environmental Justice Focus?

<https://www.jdsupra.com/legalnews/biden-administration-executive-order-1654454/>

Biden Administration Executive Order Further Signals Environmental Justice Focus
Vinson & Elkins LLP

On January 27, 2021, President Biden released an “Executive Order on Tackling the Climate Crisis at Home and Abroad.” Among a host of sweeping proclamations and orders involving foreign and domestic policy on climate change, the Biden administration has reaffirmed that Environmental Justice (“EJ”) is one of its core concerns. As we noted in our recent article, the Biden administration has strongly signaled that EJ enforcement matters will be a priority and has clearly laid out a framework of plans to strengthen its enforcement response regarding environmental matters involving EJ. This recent Executive Order will further those goals by coordinating government strategies, providing additional oversight within the executive branch, providing environmental data to monitoring at fenceline communities, and increasing engagement with affected communities, among other things.

Here are the highlights of the Executive Order as pertains to EJ and enforcement:

Section 220 of the Order creates through the Executive Office of the President a White House Environmental Justice Interagency Council (Interagency Council), chaired by the Chair of the Council on Environmental Quality (likely nominee Brenda Mallory) and a White House Environmental Justice Advisory Council (Advisory Council).

The Interagency Council and Advisory Council will, among other things, “ensure a whole-of-government approach to addressing current and historical environmental injustices, including strengthening environmental justice monitoring and enforcement through new or strengthened offices at the Environmental Protection Agency, Department of Justice, and Department of Health and Human Services.”¹

The Interagency Council and Advisory Council will also provide recommendations on how to expand and strengthen Executive Order 12898 — which directs federal agencies to address health and environmental effects disproportionately affecting low-income populations, develop a strategy for EJ, and promote federal programs and increase public participation regarding EJ.

In Section 222, the Order goes on to, among other things:

Direct the CEQ Chair to create a “Climate and Economic Justice Screening Tool and . . . annually publish interactive maps highlighting disadvantaged communities.”² This tool will build off of EPA’s EJSCREEN tool and will help identify disadvantaged communities.

Direct the EPA Administrator to:

“strengthen enforcement of environmental violations with disproportionate impact on underserved communities through the Office of Enforcement and Compliance Assurance”; and

“create a community notification program to monitor and provide real-time data to the public on current environmental pollution, including emissions, criteria pollutants, and toxins, in frontline and fenceline communities.”

“Frontline communities” is a phrase that has been used to describe communities that experience the “first and worst” consequences of climate change, and a “fenceline community” describes a neighborhood that is immediately adjacent to a facility and is directly affected by the operations of the facility.

Direct the Attorney General at the DOJ to:

Consider renaming the “Environment and Natural Resources Division” the “Environmental Justice and Natural Resources Division”;

Coordinate with the Office of Enforcement and Compliance Assurance of EPA to “develop a comprehensive environmental justice enforcement strategy, which shall seek to provide timely remedies for systemic environmental violations and contaminations, and injury to natural resources”; and

Coordinate EJ issues throughout the DOJ by creating an Office of Environmental Justice.

This Executive Order appears to be the beginning of a serious and sustained effort to elevate EJ issues. This Order is one more indication that EJ issues will likely be prioritized in environmental enforcement matters, which could mean increased scrutiny on facilities that impact EJ communities, and increased legal risk for environmental enforcement matters where there are EJ concerns.

1. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/>
2. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>